

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

UNIVERSAL HEALTH SERVICES OF
RANCHO SPRINGS, INC., d/b/a SOUTHWEST
HEALTHCARE SYSTEM, doing business at
INLAND VALLEY MEDICAL CENTER¹

Employer

and

Case No. 21-RC-20689

CALIFORNIA NURSES ASSOCIATION

Petitioner

DECISION AND DIRECTION OF ELECTION

The Employer, Universal Health Services of Rancho Springs, Inc., d/b/a Southwest Healthcare System, doing business at Inland Valley Medical Center, operates a healthcare system, consisting of a number of hospitals, including the two in dispute here, Inland Valley Medical Center (Inland Valley) and Rancho Springs Medical Center (Rancho Springs) located in Wildomar and Murrieta, CA. Both are acute care facilities.²

The Petitioner, California Nurses Association, filed a petition under Section 9(c) of the National Labor Relations Act seeking to represent a unit of approximately 205 Registered Nurses (RNs), located at the Inland Valley facility.

The parties disagree as to whether the petitioned-for unit is appropriate.

¹ The name of the Employer appears as amended at the hearing.

² In view of the fact the facilities are acute care facilities, the Board's 1991 Health Care Rule is applicable. (See discussion in Section V(C)).

The Employer contends that the only appropriate unit is a multi-facility unit that includes both Inland Valley and Rancho Springs Registered Nurses as well as any other locations where Southwest Healthcare employees Registered Nurses. More specifically, the Employer contends that the appropriate unit includes all Registered Nurses at the Employer's Rancho Springs facility, except those categories and classifications which the parties have agreed should be excluded. The Employer further contends the unit should also include the Employer's facilities located at 25500 Medical Center Drive, 36450 Inland Valley Drive, 36243 Inland Valley Drive and 25485 Medical Center Drive, as well as any other locations where Registered Nurses in the unit found appropriate are based.

The Employer asserts that Case Managers, Special Procedures/Cath Lab Nurses, Education Coordinators and Quality Analysts from both Inland Valley and Rancho Springs should be included in any unit found appropriate. The Employer further asserts that the Wound Care Nurse should be included in any unit found appropriate. The Employer contends that Charge Nurses should be excluded from any unit found appropriate.³

The Petitioner contends that a bargaining unit that includes all full-time, regular part-time and per diem Registered Nurses providing direct patient care in positions requiring an RN license, including but not limited to Charge Nurses and Relief Charge Nurses, at the Employer's facility, located at 36485 Inland Valley Drive, Wildomar, California, and which excludes Education Coordinators, Quality Analysts, the Wound Care Nurse, Case Managers, Cath Lab Nurses, Clinical Leads, Women's Services Supervisors, Lead Case Managers, Department Directors, House Supervisors, Registry

³ With regard to the eligibility of Charge Nurses (and Relief House Supervisors), the parties agreed to a method by which those employees shall be allowed to vote, subject to challenge, which is embodied in the parties' joint exhibits.

RNs, Traveler RNs, office clerical employees, managerial employees, confidential employees, guards and supervisors as defined in the Act, is the appropriate unit for the purposes of collective bargaining.

The Petitioner asserts that Registered Nurses employed by Southwest Healthcare System, at any facility other than Inland Valley, including Rancho Springs, the future Wound Care Center located at 36243 Inland Valley Drive⁴ and the Employer's facilities located at 36450 Inland Valley Drive and 25485 Medical Center Drive should not be included in the bargaining unit. To the extent that the positions of Education Coordinators, Quality Analysts and Case Managers are found eligible, by the Regional Director, for inclusion in a single facility unit located at Inland Valley, the Petitioner asserts that only the Education Coordinators, Quality Analysts and Case Managers who primarily work at Inland Valley, i.e., the individuals in the positions described, by the Employer, as "Inland Valley based"⁵, should be included in the bargaining unit.

The Petitioner further asserts that, if the Regional Director directs an election in the single facility unit located at Inland Valley, only the Special Procedures/Cath Lab Nurses who primarily work at Inland Valley, i.e., the Special Procedures Nurse, described by the Employer, as "Inland Valley based," should be included in the bargaining unit.

The parties did stipulate that any unit found appropriate should include all full-time, regular part-time and per diem Registered Nurses providing direct patient care in

⁴ At the time of the hearing in this matter, November 2003, the Employer intended in the very near future to open a new Wound Care Center adjacent to the Inland Valley acute care facility. The facility has most likely now been open for several months.

⁵ At the hearing, the Petitioner took issue with the Employer's description of any employee being "based" at either facility. For purposes of this Decision, however, the description of a employee being "based" out of a particular facility is being utilized.

positions requiring an RN license including, but not limited to, Relief Charge Nurses, at the Employer's facility located at 36485 Inland Valley Drive, Wildomar, California, and excluding Clinical Leads, Women's Services Supervisors, Lead Case Managers, Department Directors, House Supervisors, Registry RNs, Traveler RNs, office clerical employees, managerial employees, confidential employees, guards and supervisors as defined in the Act.

I have considered the transcript, exhibits and arguments presented by the parties and, as discussed below, I have concluded that an appropriate unit in this case is limited to the Inland Valley Medical Center facility and includes the Wound Case Nurse, Case Managers, Special Procedures Nurse, Education Coordinators and Quality Analysts who are "based", as described by the Employer, out of the Inland Valley facility.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Based upon the entire record in this proceeding, I find:

I. HEARING OFFICER RULINGS:

The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.⁶

II. JURISDICTION:

The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this matter.⁷

⁶ The Petitioner submitted a Motion to Correct the Transcript. The Motion was unopposed and is hereby granted.

⁷ The Employer, Universal Health Services of Rancho Springs, Inc., d/b/a Southwest Healthcare System, doing business at Inland Valley Medical Center, a Delaware corporation, with offices and a facility located at 36485 Inland Valley Drive, Wildomar, California, is engaged in the operation of a health care institution. During the past 12 months, a representative period, the Employer derived gross revenues in excess of \$250,000 from the operation of its health care facility, and purchased and received goods valued in excess of

III. LABOR ORGANIZATION:

The Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

IV. QUESTION CONCERNING COMMERCE:

A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

V. APPROPRIATE UNIT:

The following employees of the Employer constitute an unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time, regular part-time and per diem Registered Nurses providing direct patient care in positions requiring an RN license at the Employer's facility located at 36485 Inland Valley Drive, Wildomar, California, including the Wound Care Nurse, Special Procedures Nurses, Education Coordinators, Case Managers and Quality Analysts who are primarily based at the Inland Valley facility.⁸

EXCLUDED: All other employees including Clinical Leads, Women's Services Supervisors, Lead Case Managers, Department Directors, House

\$5,000, which goods were shipped directly to the Employer's Wildomar, California facilities from points located outside the State of California. Thus, the Employer satisfies the statutory jurisdictional requirement as well as the Board's discretionary standard for asserting jurisdictions herein. *Butte Medical Properties d/b/a Medical Center Hospital*, 168 NLRB 266 (1967).

⁸ Charge Nurses and Relief House Supervisors shall vote under challenge subject to the parties joint stipulation.

Supervisors, Registry RNs, Traveler RNs, office clerical employees, managerial employees, confidential employees, guards and supervisors as defined in the Act.

A. OVERVIEW OF OPERATIONS

As noted, the Employer, Universal Health Services of Rancho Springs, Inc., d/b/a Southwest Healthcare System, is comprised of two acute healthcare facilities – Inland Valley and Rancho Springs - along with other locations including a central business office (CBO), medical office/administration building adjacent to the Rancho Springs facility, and a medical office building adjacent to the Inland Valley facility.

The Employer was founded in January 2001 when Universal Health Services, which had operated Inland Valley for approximately ten to twelve years, purchased Rancho Springs from Tenet Healthcare. After the acquisition, Inland Valley and Rancho Springs were merged to form Southwest Healthcare System, and were later consolidated under one operating license in July 2002. Universal Health Services of Rancho Springs, Inc., is the corporate parent and license holder of Southwest Healthcare.

Inland Valley is located in Wildomar, California, and Rancho Springs is located 5.9 miles away, in Murrieta, California. Rancho Springs is the closest hospital to Inland Valley, and both are relatively isolated from any other healthcare facilities. The nearest hospital to Rancho Springs, other than Inland Valley, is in Fallbrook, approximately 30 to 40 miles away, and the closest hospital to the northeast is Menifee Hospital, which is about 15 to 20 miles away.

Inland Valley has approximately 500 to 525 employees. Of those, approximately 212 employees are Registered Nurses (excluding Charge Nurses, managers and supervisors).

Rancho Springs has approximately 480 to 500 employees. Of those, approximately 198 are Registered Nurses (excluding Charge Nurses, managers and supervisors).

The Joint Commission for Accreditation of Healthcare Organizations (JCAHO), the Department of Health Services (DHS) and the Medical Board conduct a joint survey every three years and the Chief Nursing Executive (CNE) for Inland Valley and the CNE for Rancho Springs were jointly responsible for the survey completed in April 2003.

Since the January 2001 acquisition of Rancho Springs, Southwest Healthcare has created a Policy and Procedures Committee. That committee was put together to review, develop and approve policies and procedures for all of Southwest Healthcare. The committee-which consists of individuals based at both Inland Valley and Rancho Springs-meets monthly.

Since its creation, the committee has developed and approved a wide variety of human resources, clinical and business-related policies. The policies have generally been implemented at both Rancho Springs and Inland Valley.

One of policy manuals developed by the committee is the Southwest Healthcare Administrative Policies and Procedures Manual, which is in effect at both facilities. The manual contains a number of policies and procedures relating to overall administrative matters, such as conflict resolution, emergency codes, confidentiality of medical records and records retention. Upon acquisition, the manual was created by combining the pre-acquisition policies from Inland Valley and Rancho Springs.

Prior to the acquisition, Inland Valley and Rancho Springs were separate and distinct facilities with separate management. Currently, Southwest Healthcare has a single Board of Governors and one Chief Executive Officer (CEO), whose responsibilities extend to both facilities. Southwest Healthcare also has a single Chief Financial Officer (CFO) and a single Assistant Administrator. For a period of

approximately one year after the acquisition, there was one Chief Operating Officer (COO) for both facilities, although there is now a COO at each facility. Each of the facilities has a Chief Nursing Executive (CNE).

The pre-acquisition Assistant Administrator at Inland Valley is now the COO at Rancho Springs. Additionally, that person also has responsibility for the Medical Staff, Performance Improvement Department and Risk Management Department for both facilities. The former Assistant Administrator for Rancho Springs is now the Assistant Administrator for both facilities with responsibilities for a variety of ancillary services at both facilities.

The pre-acquisition Controller for Inland Valley is currently the Chief Financial Officer for Southwest Healthcare, with responsibilities for both Rancho Springs and Inland Valley.

Before acquisition, the Rancho Springs CNE was the Patient Care Services Director for Rancho Springs. The former Human Resources Director at Rancho Springs is now the Human Resources Director for both Rancho Springs and Inland Valley. The former Critical Care Services Director for Rancho Springs has now become the Director of the Emergency Services Department for both Inland Valley and Rancho Springs. The pre-acquisition Infection Control Coordinator at Rancho Springs is presently the Risk Management Director for both Inland Valley and Rancho Springs. The Manager of Medical Staff Services for Rancho Springs is currently the Director of Medical Staff Services for Southwest Healthcare with responsibilities at both locations.

A Joint Leadership Committee, consisting of all manager and/or director level positions for both facilities, meets on a monthly basis to review operational issues. The group has a standing agenda of facilities' updates, human resources updates, new business, old business, and a round table. The meetings are generally facilitated by the CEO of Southwest Healthcare, as well as other senior management members.

1. Human Resources

Southwest Healthcare has a Human Resources Department with one Director who has control over both facilities. The present Southwest Healthcare Human Resources Director is the former Human Resources Director for Rancho Springs.

Prior to the purchase of Rancho Springs, Rancho Springs and Inland Valley had separate personnel procedure manuals. Upon acquisition, Southwest Healthcare began the process of creating a single human resources manual. The consolidation process began in January 2001 and the human resources manual was finalized in early 2003. Prior to the integrated manual policy being finalized, the two facilities operated under a variety of common human resource policies.

There is a single employee handbook currently utilized at both facilities. Each facility had its own handbook before the acquisition.

The same human resource forms are used for employees at both facilities, including forms relating to job applications, paid time off and absence approval requests. Approximately three to six months after acquisition, forms to be used at both facilities were established by taking the existing forms from both facilities and choosing one form or the other, or developing a hybrid from both. Files for both facilities are maintained together.

Southwest Healthcare has a Recruitment and Retention Committee which is comprised of human resources employees, nursing directors and staff nurses from both Inland Valley and Rancho Springs. It is primarily a nursing committee. The committee meets twice a month, one meeting includes only directors, and the second meeting includes staff nurses. The committee makes recommendations to senior management regarding opportunities to retain and recruit employees, particularly Registered Nurses, at both facilities. The recommendations accepted by senior management have been generated by both Inland Valley and Rancho Springs employees.

Southwest Healthcare's "Employment Opportunities" posting, which identifies all open positions within the system, is posted on a weekly basis at both facilities. It is

distributed to management at both sites to post within their departments, in the cafeterias and on bulletin boards throughout both facilities. The human resources department staff make rounds twice a week to ensure that the postings are up. Southwest Healthcare also has a telephonic job line so that interested persons can call twenty-four hours a day and hear what positions are available. The job line covers openings for both facilities. A single recruitment website for both Rancho Springs and Inland Valley also describes the same job postings.

Rancho Springs and Inland Valley share one recruitment coordinator for both facilities. All postings now advertise positions for the Southwest Healthcare System, regardless of whether Southwest Healthcare is looking to fill positions at Rancho Springs or Inland Valley.

Human Resources for Southwest Healthcare is the recipient and screener of all incoming applications, including RNs, for both facilities. All applications for both sites are forwarded to Human Resources where they are processed and evaluated.

The same application is used for openings at Rancho Springs and Inland Valley. Human Resources must sign off on all hires at both sites.

Southwest Healthcare uses a single system of job classification. Prior to acquisition, job titles at the two facilities were different. Approximately three to six months after acquisition, the titles were merged together.

Registered Nurse job descriptions were last revised approximately in the first quarter of 2002. Both Inland Valley and Rancho Springs have the same job descriptions for a number of nursing positions including Charge Nurse, Operating Room, Special Procedures, Case Management, Clinical Lead (ICU), Outpatient Surgical Department (OPSD), RN Analyst, Performance Improvement, GI Lab, PACU, Clinical Lead (Emergency Services), and Education Coordinator.

There are other job descriptions that are applicable at only one facility. For example, the position of Surgical Case Manager is available only at Inland Valley. The Rape Crisis Center job description and Infusion Therapy job descriptions are applicable

at Rancho Springs only as there is no Infusion Therapy or Rape Crisis Center at Inland Valley.

2. New Employee Policies and Procedures

New hires, including nurses, receive the same formal orientation at both Inland Valley and Rancho Springs. The orientations are facilitated by the Education Department, with the help of several Directors. There is also an introduction by the members of the Southwest Healthcare senior management team. The same new employee information packet is used for new hires at both facilities.

New hire orientation is a two-day general orientation which takes place about once or twice a month. The first day of orientation is for all new hires throughout the entire organization. All new hires from both facilities attend the first day of orientation together in the Education Building, which is currently separate from either facility. The same new hire orientation manual is used for all employees at both facilities.

The patient care services portion of orientation is attended only by Registered Nurses. Nurses who will be based at Rancho Springs attend the same patient care orientation as those nurses who will be based at Inland Valley, and receive the same patient care service orientation packet.

All new employees from both facilities are sent to Employee Health, which is a contracted service, for all new hire physicals and health-related issues for employees of both facilities. Since the acquisition, finding modified work for work-injured employees, including nurses, is first done at the department level; if there is no work within the employee's department, then work is looked for throughout the healthcare system.

Loss Control-which is responsible for Southwest Healthcare's workers' compensation program-is managed on a system-wide basis, with a single person providing the service for both facilities.

3. Discipline and Evaluations

Human Resources develops employee evaluation tools and processes, which are the same for both facilities, and Human Resources must approve annual evaluations and merit increases for employees at both facilities. A director or lead supervisor at each individual facility conducts the evaluation, which is forwarded through a series of approvals at the separate facilities before it comes to Human Resources for final approval. Human Resources has input into the final evaluation given to an employee at either facility where there is a disputed issue of any kind-for example, a disagreement as to the evaluation process or outcome. The Human Resources Director has been involved in the evaluation process at both facilities concerning disagreements over the evaluations of nurses.

The discipline process is administered according to the same policies at both facilities. The process begins informally, with “coaching” and “clarification” done at each individual facility by either a lead or charge nurse. At the informal stage, individual managers have autonomy to initiate disciplinary without consulting Human Resources. After the informal discipline is carried out, the department director will send documentation to Human Resources to be placed in the employee’s personal file. Directors and/or managers are not required to consult with Human Resources at the informal stage. Directors have authority to issue more severe written discipline but written warnings, or more serious discipline, are not to be issued at either of the two facilities without Human Resource’s involvement. Sometime in approximately April 2003, it came to the Human Resource Director’s attention that written warnings had been issued to nurses without first getting approval of Human Resources so the warnings were rescinded.

4. Benefits and Pay

Southwest Healthcare has a standard paycheck form used for all of its employees, including its Registered Nurses. The paychecks are generated from a single payroll

facility located in the central business office. The Inland Valley address appears on all Southwest Healthcare employees' paychecks, regardless of the facility at which they are located. The same payroll practices and policies are utilized for both facilities. Paydays are the same at both Rancho Springs and Inland Valley, and paychecks for employees from both facilities are drawn from the same account.

If a Registered Nurse works in a particular payroll period at both Inland Valley and Rancho Springs, his or her hours are considered cumulatively for purposes of overtime calculations.

The same wage scales are used at both facilities. Prior to acquisition, there were differences in the wages scales between the two facilities for the same job titles. Differences were resolved about three to six months after acquisition.

There are no differences in employee benefits between Rancho Springs and Inland Valley. Prior to acquisition, there were such differences. Benefits were merged together by assessing benefit plans for each facility and some benefits from both facilities were included in the merged benefit program. The same benefits brochure is posted throughout both facilities. As part of the employee referral program, if a nurse based at Inland Valley refers an outside nursing candidate to an opening at Rancho Springs, he or she receives a bonus, and vice versa. These bonuses are not available for nurses who transfer from one facility to the other.

Seniority, which is measured by an employee's date of hire, is recognized between facilities thus, if an employee transfers from Rancho Springs to Inland Valley or vice versa, he or she carries his or her seniority to that facility.

The annual holiday party is attended by employees, including Registered Nurses, from both facilities. Registered Nurses from both facilities attend the annual nurse's recognition dinner as well as various other employee recognition activities. The holiday party and annual nurse's recognition dinner are both held offsite, while the other employee recognition programs are held at either of the facilities.

Southwest Healthcare also holds a joint annual service award dinner that honors employees' tenure with the system, and which is attended by employees at both facilities, including Registered Nurses.

There is also a Registered Nurse of the Year, wherein one Registered Nurse from each facility is recognized as a Southwest Healthcare System Nurse of the Year. The Nurse of the Year ceremony is attended by nurses from both facilities together.

The employees at Rancho Springs and Inland Valley wear identical name badges. The badge at either facility does not name the particular facility; it says only that the individual is employed by Southwest Healthcare.

5. Nursing Operations and Management

Inland Valley and Rancho Springs have separate Chief Nursing Executives (CNE).

Both CNEs supervise the Nursing Directors, Nurse Managers and House Supervisors, as well as the Pharmacy and Physical Therapy Departments for the respective facilities.

There are some departments that the two CNEs share, but they have split the departments amongst themselves. The Inland Valley CNE has direct supervision of Infection Control and Bloodless Medicine, while the Rancho Springs CNE supervises Case Management, Utilization Review and Education. Each CNE has indirect responsibility for the shared departments that the other CNE directly supervises.

Nursing policies and procedures for Inland Valley and Rancho Springs were merged together post-acquisition to create a single set of policies and procedures.

There is an overall nursing manual for both sites, as well as certain manuals specific to each nursing department. The department specific nursing manuals at Inland Valley and at Rancho Springs are generally the same, although there are exceptions, such as certain services offered only at one hospital, for example, chemotherapy.

The Nursing Department has a single budgeting process for both facilities. The Department has an operating and capital budget, and the CNE's solicit feedback from both facilities regarding equipment and staffing needs.

The two facilities sometimes share nursing equipment, such as heat lamps, IV pumps and beds.

The nursing departments operate on monthly schedules. Most of the nursing departments operate on twelve-hour shifts, although the Operating Room and Case Management utilize eight-hour shifts. Most of the department managers at both facilities let the staff self-schedule and then rectify disparities and fill slots. Most of the departments have a standard staffing ratio that is the same at both Inland Valley and Rancho Springs. The schedules are adjusted based on supply and demand. The staffing adjustments process is the same at both facilities: the nurses do acuity evaluations every shift, and based on acuity and other factors, including budgetary restrictions, the department makes determinations as to the number of staff required on the upcoming shift.

Charting of patients by nurses at Inland Valley is done by computer; it is done manually at Rancho Springs. The policies and procedures regarding computerized charting, called ACCESS, are expressly applicable only at Inland Valley.

Medication dispensing differs between Inland Valley and Rancho Springs. At Rancho Springs, Pyxis machines are used. Pyxis is an automated drug dispensing system. There are Pyxis machines on every unit at Rancho Springs. All Rancho Springs patients are entered into the Pyxis system. Only staff nurses at Rancho Springs have codes to use Pyxis.

At Inland Valley there are only two Pyxis machines-one in Emergency Services and one in a night locker between the Med Surg units. At Inland Valley, Pyxis is only used minimally. Medications at Inland Valley are dispensed more traditionally, using the pharmacist and restocking the cabinets.

While both Inland Valley and Rancho Springs use Registry nurses, Rancho Springs uses the Registry much more extensively than Inland Valley, up to four to twelve times more frequently. The Emergency Services Director estimated that in the year from November 2002 through October 2003, the Rancho Springs Emergency Services

Department used Registry nurses 2 to 3 shifts a pay period or 4 to 6 shifts a month. In that same year, before the filing of the petition, the Inland Valley Emergency Services Department used Registry nurses about once a month or once every other month. Six shifts a month as compared to a shift every other month would be 12 times more usage; four shifts a month as compared to one shift a month would be 4 times more usage.

The Code Blue procedures differ between Inland Valley and Rancho Springs. The Admission Data Base Forms are also different. Staff nurses at Rancho Springs are competent to insert PICC (Percutaneous Intravenous Catheters), a hybrid between a central line and a peripheral IV. At Inland Valley, PICC lines are put in by Radiologists, i.e., physicians.

6. Emergency Services Department

Emergency Services at both sites are run by a single Director, who is a Registered Nurse. She reports to both CNEs. The Emergency Services Department Director has an office at both sites and typically spends part of each working day at each site.

The Emergency Services Department Director has overall supervision of the Emergency Services Registered Nurses at both facilities. The Director, however, spends most of her time in meetings, so the day-to-day supervision is carried out by the Clinical Leads and Charge Nurses. Both Inland Valley and Rancho Springs have Clinical Leads and Charge Nurses below the Director. The Emergency Services Department Director drafts and presents the Registered Nurse's evaluations at both facilities. The Director uses the same process for evaluating staff nurses at both facilities. She also determines and imposes, based on the input of the Clinical Leads and Charge Nurses, all corrective action and discipline of the Emergency Services staff at both Rancho Springs and Inland Valley. She interviews and makes the hiring decisions for nurses in the Emergency Services Department, with input from her Clinical Leads.

The Emergency Services Department operates under a single set of Emergency Services Department Policies and Procedures applicable to both sites. Both Inland Valley and Rancho Springs are Level II Emergency Departments, but, significantly,

Inland Valley is also a designated emergency Base Station and Level III Trauma Center. Being a Trauma Center means, among other things, that radio paramedics call in on patient traffic and MICNs (Emergency Services Department Registered Nurses with radio certification) have to be on duty 24 hours a day. As part of being a Base Station, Inland Valley also has to have a Paramedic Liaison Nurse Coordinator (PLN). Inland Valley also has to hold “tape critiques” monthly. None of these requirements applies to Rancho Springs; Rancho Springs does not have any certified MICN’s or a PLN.

Both emergency rooms have a “fast track” area for treating lower acuity patients, which areas operate under the same hours. Should Emergency Services Department nurses have to work away from their home hospital in the Emergency Services Department at the other facility, they probably need limited orientation since many of the forms and processes are the same.

The Emergency Services Department Director holds separate monthly staff meetings at the two facilities. She also conducts joint staff meetings for both emergency room staffs three times a year. Registered Nurses from both facilities’ attend the meetings. Joint Charge Nurse staff meetings are held six times per year for Emergency Room Charge Nurses from both facilities.

The combined Emergency Services Department employs 67 staff Registered Nurses (28 RNs at Rancho Springs and 39 at Inland), or approximately 16 percent of the total staff Registered Nurses employed by Southwest Healthcare.

7. Intensive Care and Progressive Care Unit

The Intensive Care Units (ICU) at Inland Valley and Rancho Springs have a single Director. The ICU Director also manages a Progressive Care Unit (PCU) at Rancho Springs, and she managed the PCU at Inland Valley until it was closed. There is no PCU at Inland Valley. Prior to the acquisition, the ICU Director worked as the ICU Manager at Inland Valley.

The ICU Director has general supervision of ICU services at both Rancho Springs and Inland Valley. Below her are Clinical Leads and Charge Nurses who do the actual

day-to-day supervision. There is a single set of ICU policies that apply to both sites. The patient-to-RN staffing ratios are the same in both ICUs.

The ICU Director typically visits both ICUs each day. She maintains an office at each site. With the assistance of the Clinical Leads and Charge Nurses, she completes the evaluations of the ICU nurses at both sites, and she conducts the evaluation interview with each nurse.

The ICU Director, with input from the Clinical Leads and Charge Nurses, is responsible for corrective action/discipline of the critical care staff, and she uses the same process for discipline at both sites. She directs the staff training for the critical care staff at both sites and holds staff meetings for ICU Registered Nurses, utilizing the same agenda for meetings at Rancho Springs and Inland Valley.

One of Petitioner's witnesses testified that, although she usually works at the Inland Valley ICU, she may pick up shifts at Rancho Springs. When she worked at Rancho Springs, she performed the same basic nursing responsibilities that she performed at Inland Valley. While working at the Rancho Springs ICU she has contact with the nurses and other employees in the Rancho Springs ICU. The process for requesting extra shifts in the ICU is the same at both facilities.

At the Inland Valley ICU, Registered Nurses may "float" to the Med Sug Department. At Rancho Springs, the ICU Registered Nurses do not float to Med Sug. At Inland Valley, the ICU Registered Nurses may also float to the Emergency Services Department. At Rancho Springs, the ICU Nurses do not float to the emergency room unless there is an ICU "hold" (meaning there is no bed available in the ICU).

The combined Critical Care departments (ICU and PCU) employ 54 Registered Nurses, or approximately 13 percent of the total Registered Nurses employed by Southwest Healthcare.

8. Case Management

The Case Management Department has a single director for both facilities. All Case Managers are required to be Registered Nurses, including the Director. There have been a number of Case Managers that work simultaneously as staff Registered Nurses.

The Case Management Director manages the Social Services Department, the Case Management Department, and Pastoral Care. Case Management is the only one of the three departments which employs Registered Nurses.

The Director is responsible for the Case Managers at both facilities, and spends half her time at Inland Valley and the other half of her time at Rancho Springs. She reports to both facility CNEs. There is currently a Case Management Supervisor at Rancho Springs and a Lead Case Manager at Inland Valley. The Supervisor or Lead may have responsibilities at the other facility if the Director is on vacation.

The Case Management Department handles patient discharge planning and utilization review. Case Managers interact directly with patients and assess their clinical status by speaking with them or their families, reviewing their charts, and/or visually observing their status. The Case Managers will also interact with other nurses, physical therapists, respiratory therapists, and other medical personnel.

There is a single job description for Case Management Registered Nurses at both Inland Valley and Rancho Springs. The Case Managers at both facilities are governed by the same Case Management and Social Service Policies and Procedure Manual. Case Managers have the same productivity requirements at both Inland Valley and Rancho Springs. The Case Management Department is budgeted as a single cost center.

There is also a Surgical Case Manager at Inland Valley who sees inpatient and outpatient surgical patients prior to surgery. There is a single Surgical Case Manager job description. Rancho Springs, however, has a different position that handles the same sort of patients. The Surgical Case Manager works an eight-hour shift.

The Case Management Department has a mandatory on-call schedule, and the on-call Case Manager covers both sites. The on-call schedule includes all Case Managers from both locations.

There are ten Case Management Registered Nurses. The Case Management Department employs full-time, part-time and per diem Registered Nurses. The per diem obligation for Case Managers is the same as for other per diem Registered Nurses. Per diems are listed on the Case Management Schedules for Inland Valley and Rancho Springs and they can sign up to work at either facility.

Four joint employees⁹ work in the Case Management Department-three whose primary base is Inland Valley and one whose primary base is Rancho Springs.

The Case Management Director schedules the Case Managers at both sites with the help of the Case Manager Supervisor and Lead who may suggest adjustments to the schedule depending upon the need for fewer or additional Case Managers. There are set guidelines for determining whether to call in an additional Case Manager or send a Case Manager home, from which the supervisors may not depart without talking to the Director.

The Case Management Director has responsibility for hiring and firing, as well as discipline beyond the oral stage. She has disciplined Case Managers at both sites without the involvement of the respective supervisors. Both the Lead from Inland Valley and Supervisor from Rancho Springs sit in on interviews of potential new hires. Neither the Supervisor nor the Lead has the authority to give a Case Manager a promotion, although they provide input to the Director, who makes such decisions.

The Case Manager's office at Inland Valley is located within a few feet of the patient rooms. At Rancho Springs, the office is in a facility trailer. Case Managers at Rancho Springs often spend much of their day on the nursing units where they utilize an area at one of the nurses' stations. The Director's office at Inland Valley is adjacent to the elevators that go to the Case Manager's office. At Rancho Springs, her office is right next to the Case Manager's office.

⁹ The Employer has designated certain employees as "joint employees". See Section V(A)(18) for a discussion of joint employees.

On weekends, when Case Managers are not regularly scheduled, other Registered Nurses will perform the function of the Case Manager, with the assistance of the House Supervisors. If needed, there is a Case Manager on call.

Case Managers are on the same hourly pay grade as Med Surg Registered Nurses, and receive the same benefits as other Registered Nurses. Like other Registered Nurses in the Nursing Department, Case Managers report up through the chain of command to the CNE. Case Managers use the same cafeteria as the Registered Nurses, celebrate Nurses' Week with the RNs, are eligible for the Nurse of the Year award and attend Nursing Recognition and social events with other Registered Nurses. Case Managers usually wear "street clothes," but they can wear lab coats. Their identification badges designate that they are Registered Nurses.

9. The Education Department and Education Coordinators

The Rancho Springs CNE has primary supervision over the nurse educators. There are three Registered Nurses acting as nurse educators, with the job classification of "Education Coordinators." One has primary responsibility for Rancho Springs; one has primary responsibility for Inland Valley; and one has responsibility for education in the Women's Services Departments at both hospitals but she is based out of Inland Valley. All staff Registered Nurses attend joint classes conducted by all three of the Education Coordinators. The Education Coordinators are not involved in direct patient care.

The Education Coordinators conduct nursing orientation for all of Southwest Healthcare's Registered Nurses. In addition, the Education Coordinators also orient nurses at both facilities to new equipment or facilitate that orientation.

The Education Coordinators also organize and present the annual "Skills Week" during which Registered Nurses from both facilities confirm their competencies in a variety of subject areas and demonstrate their proficiency in various core competencies in their departments. The demonstration of proficiencies is a regulatory requirement.

The Education Coordinators must have a current California Registered Nurse's license. They are also required to have an Associate Degree in Nursing. Like all other Registered Nurses employed by Southwest, the Education Coordinators receive an annual evaluation.

10. Performance Improvement Department and Quality Analysts

The Performance Improvement Department (PID) is responsible for quality assurance by insuring that the facilities' programs and services comply with regulatory and quality standards of care. The PID maintains statistics and analyzes various medical services such as conscious sedation to assure compliance with regulations and it provides information to accreditation and governmental bodies. There is a single PID for Southwest Healthcare, which services both sites.

There is a single Director of the Performance Improvement Department. There are two Registered Nurses in the Department, with the job classification of Registered Nurse Analyst, Performance Improvement. The two nurses are also commonly referred to as "Quality Analysts." The nurses work primarily in private offices reviewing charts, but they also interact with staff Registered Nurses at both sites to obtain data. They do not provide direct patient care. The Quality Analysts attend various clinical committees at which time they interact with other Registered Nurses.

There is a Quality Analyst based at Rancho Springs, and one at Inland Valley. On occasion they may perform quality analysis functions for the other hospital. The Quality Analyst position requires a current California Registered Nurse's license.

11. Special Procedures/Cath Lab Nurses

Three Registered Nurses work in the Radiology Department's Special Procedures; two are based at Rancho Springs' Cardiac Cath lab, and one is based at Inland Valley's Special Procedures Department. The three nurses have the same job description. The Radiology Department is separately supervised although the three nurses are ultimately under the overall supervision of the CNEs of Rancho Springs and Inland Valley. The

CNEs share information with each other regarding the nurses' performances and competencies, and provide input to the Department Director regarding the nurses' evaluations. The CNEs review and sign off on the evaluations for all three nurses. The Special Procedures Nurses float between sites based upon workload and vacation or sick coverage. The three nurses have one on-call shift every third weekend, at which time they cover both facilities.

12. Wound Care Services

Southwest Healthcare also has a Registered Nurse who provides wound care service, which is a specialized nursing service for patients with chronic wounds that are slow to heal. She provides those services to patients at both facilities.

The Wound Care Nurse is a "joint employee", whose home base was the Med Surg unit inside the Inland Valley acute care facility.¹⁰ The Wound Care Nurse works hands on with the patients in patient rooms at both facilities. She looks at and makes entries into the patients' charts and administers medication to patients. She receives the same pay and benefits as a staff Registered Nurse and is subject to the same policies and procedures.

13. Women's Services

Women's Services have separate Directors at each facility, who in turn report to each facility's CNE. Both Directors are Registered Nurses. The two facilities are separately supervised. The skills required of a nurse at both facilities departments are

¹⁰ As of the date of the hearing, the Wound Care Nurse was based inside Inland Valley. Southwest Healthcare, however, was about to open a new Wound Care Center in approximately December 2003, which is located in a medical office building, about 50 yards from the front door of the Inland Valley acute care facility. It was projected that the Wound Care Nurse would spend time at the Wound Care Center evaluating and assessing patients from both sites, and would continue to work at both facilities as needed. When she was working with an in-patient, she would continue to be required to go to the patient's room and provide care along side the patient's assigned nurses and other care providers.

almost identical. There is a single policy and procedures manual in effect at both facilities.¹¹

The Women's Services department has a similar average census and number of beds in both labor and delivery and postpartum at Inland Valley and Rancho Springs. The separate Directors are in contact with each other regarding policies and procedures and the volume of patients. The volume of patients at the Rancho Springs Women's Services Department often exceeds capacity, requiring the transfer of patients to Inland Valley (referred to as going on "diversion").

There is a Clinical Lead under the Director at Inland Valley. Below the Clinical Lead are the Charge Nurses. There is no Clinical Lead at Rancho Springs. Below the Director at Rancho Springs are the Charge Nurses.

The facilities' jobs descriptions for Women's Services Registered Nurses differ with regard to the patient age range, since the department at Rancho Springs houses pediatrics. There are many day-to-day functions of Registered Nurses working in Women's Services at both facilities that are similar.

14. Medical Surgical (Med Surg)

The Medical Surgical (Med Surg) Department has two directors, one at each facility. There are two Med Surg units at Rancho Springs: "1 East" and "1 West." There are also two Med Surg units at Inland Valley: "2 East" and "2 West." 2 West is also called the Definitive Observation Unit (DOU).

The two Department Directors are in contact with each other, and sit on a number of the same committees.

The job descriptions for Med Surg Registered Nurses at the two facilities have some differences including the placement of pediatrics patients and the fact that

¹¹ At Rancho Springs, pediatric patients are treated in the Women's Services Department; at Inland Valley, pediatrics are treated in the Med Surg Department. Inland Valley Med Surg staff nurses on 2 East must know PALS (Pediatric Advance Life Support) because they care for pediatric patients. Rancho Springs Med Surg staff nurses do not care for pediatric patients. Also, as noted, there is no Rape Crisis Center at Inland Valley.

chemotherapy is administered at Rancho Springs. In addition, Rancho Springs has a basic dysrhythmia course and required licensure certification because ACLS (Advanced Cardiac Life Support) has not yet become a requirement at that facility.

The Med Surg department does not have its own policies and procedures manual. The units are governed by the general nursing policies and procedures, which are the same for both facilities. The standard for determining the Med Surg budget is the same at both facilities.

The Chemotherapy Infusion Center is part of the Med Surg Department at Rancho Springs. Infusion therapy, which is used for patients undergoing chemotherapy, was only offered at Rancho Springs at the time of the acquisition and continued to be offered at Rancho Springs only. Inpatients at Inland Valley needing infusion therapy can be transferred to Rancho Springs. An outpatient who needs infusion therapy could go to Rancho Springs even if he or she had been an inpatient at Inland Valley. Patients may also go to other non-Employer facilities for infusion therapy.

15. Perioperative Services

Perioperative Services involves the Operating Room, the Recovery Room, Outpatient Surgery, Endoscopy (Gastrointestinal Lab) and Sterile Processing. There are two Directors of Perioperative Services, one at each facility. The functions performed by Perioperative Services are similar at both Inland Valley and Rancho Springs.

The operating rooms at Inland Valley and Rancho Springs operate under a consolidated cost center. The skills required to be an operating room nurse at the two sites are similar, although, notably, neuroback surgery is performed at Rancho Springs that is not performed at Inland Valley.

The operating room nurses at the two facilities have the same job description, come to work at the same time and use many of the same general operating room instruments, or where the equipment is different, they are at least familiar with the kinds of instruments used at the other facility. The anesthesia carts differ between the two

facilities as do the towers and pumps used for arthroscopic surgery and the fracture tables.

The recovery room Registered Nurse job description is the same for both Inland Valley and Rancho Springs. There are few real differences in the day-to-day job functions of a recovery room Registered Nurse between facilities.

The outpatient surgery Registered Nurse job description is applicable at both Inland Valley and Rancho Springs. There are few real differences in the day-to-day activities of the nurses in the outpatient surgery department at either facility.

The gastrointestinal (GI) lab Registered Nurse job description is the same for both Inland Valley and Rancho Springs but there is no GI nurse at Rancho Springs.

16. Permanent Transfers between facilities

Southwest Healthcare allows employees, including nurses, to transfer permanently between Rancho Springs and Inland Valley. Each employee is identified by an employee number, the first three digits of which identify whether they work at Rancho Springs or Inland Valley. When an employee is permanently transferred from one facility to the other, the employee maintains his or her original employee number. Employees maintain their original seniority upon transfer between facilities. All transfers have been voluntary; there have been no involuntary transfers.

In the two and half years after the 2001 acquisition, at least 49 employees transferred permanently from one site to the other, including either 11 or 13 Registered Nurses.¹²

17. Temporary Interchange of Employees

In 2002, 23 staff level Registered Nurses from Inland Valley worked at least one shift at Rancho Springs, which increased to 25 nurses in 2003; in 2002, six nurses based at Rancho Springs worked at least one shift at Inland Valley, which increased to 16

¹² The Employer states that 13 Registered Nurses have transferred. The Union contends that only 11 have permanently transferred. In either case, the number is low.

nurses in 2003. Although many of the nurses worked only one or two shifts away from his or her base hospital, there are a few nurses who worked more than 10 percent of their shifts away from their home facility. A couple nurses worked between 23 to 30 percent of their time at the other facility. Looking at the interchange data in another fashion, however, the percentage of Registered Nurse shifts worked by Inland Valley Registered Nurses at Rancho Springs in 2002 and 2003 was about one percent.

Nurses working shifts at a facility to which they are not “based” do so voluntarily. There have never been any nurses involuntarily transferred (even short term) to the other facility. The Employer does expect the Case Managers, Wound Care Nurse and Special Procedures Nurses to work at both facilities. Those nurses compromise about four percent of the Employer-requested bargaining unit.

18. Joint Employees

Southwest Healthcare employs what it designates as “joint employees” including approximately fifty Registered Nurses. Joint employees are those who have been identified as having their “home base” at either Rancho Springs or Inland Valley, but who are considered administratively to be employed at both, even if they never actually work a shift at the other facility. About half of the nurses designated as joint employees at Inland Valley have never worked at Rancho Springs. Registered Nurses who are joint employees are free to sign up for shifts at either facility. The Human Resources Department keeps an ongoing joint employee list, which it initiated in January 2001 soon after acquisition.

In order to be included on the joint employee list, a request must be initiated by the employee’s Director or Department manager. The list is not exhaustive-there are employees who work at both facilities but who have not been designated as joint employees. There is no audit of employee schedules to determine if there are employees who should be on the joint employee list who are not.

If a joint employee works in a department which has one Director overseeing both facilities, that Director would perform the joint employee’s evaluation. If there are two

separate directors in the joint employee's department, the employee is evaluated by both his or her home base Director with input from his or her secondary facility Director. When evaluating nurses who work at both facilities the Department director may also receive input from other nursing managers or leads at each facility as well.

Certain departmental Directors, including Emergency Services, ICU, Wound Care Center, Special Procedures and Case Management, are hiring nurses with the understanding that they are "dual site" employees. For example, the Director of Emergency Services over both of the facilities, requires all new hires to become joint employees and informs them that they will be floated between facilities if the need arises. However, of the 15 to 20 nurses hired at Inland Valley as "joint employees", only two have actually worked a shift at Rancho Springs. No joint employee has ever been involuntarily required to work at another facility. Employees hired in Med Surg, Women's Services and Perioperative Services are not expected to be joint employees. Those three departments compromise about 2/3 of the bargaining unit.

One Inland Valley nurse, who worked more shifts at Rancho Springs than any other Inland Valley nurse other than Case Managers, stated that she was told by the ICU Director not to try to claim any extra shifts at Rancho Springs until four or five days after the Rancho Springs schedule was posted so that the Rancho Springs nurses could have first opportunity to claim the open shifts.

19. Other Non-Registered Nurse departments

The employees at both facilities working in Laboratory, Imaging, Cardiopulmonary Services, Transportation Services, Environmental Services, Plant Operations, Security, BioMed Safety, Dietary, Special Procedures at Inland Valley and the Cath Lab at Rancho Springs, all report to one Director. With the exception of Special Procedures at Inland Valley and the Cardiac Cath Lab at Rancho Springs, none of the departments which this Director supervises include positions for which a Registered Nurse license is necessary.

The Laboratory Department consists of three laboratories-one at Inland Valley and two at Rancho Springs. Each laboratory has a separate license because it is required by the California laboratory licensing agency. All three laboratories are supervised by a single Department Director and operate under one cost center. The labs all operate under the same policy and procedure manual and use the same forms. The labs share a computer network (OPUS) which allows an employee at one lab to retrieve a lab report that was generated at the other facility.

Some lab tests are only performed at one facility. For instance, microbiology tests, serology tests and some immunology tests, thousands of which are performed each year, are only performed at Inland Valley for patients of both Rancho Springs and Inland Valley. Between November 2002 and November 2003, approximately 10,862 microbiology tests were ordered for patients at Rancho Springs but run at Inland Valley. Approximately one third of all microbiology tests performed at Inland Valley were ordered at Rancho Springs. Over the same time period, approximately 70,000 chemistry tests were run at Inland Valley, 2,700 of which were ordered for Rancho Springs patients. In the same time period there were approximately 3300 serology tests run at Inland Valley, 1,149 of which were ordered for Rancho Springs.

When a specimen drawn at Rancho Springs is brought to Inland Valley for testing, Rancho Springs will call Inland Valley and tell them the specimen is coming, generally by a courier. Once the test is completed at Inland Valley, Inland Valley personnel will enter the results on the OPUS system, which will print out at the designated department at Rancho Springs. The results may be printed in the lab or directly on the nursing unit.

The Imaging Department has a separate Department Director at each site, each of whom is responsible for hiring, issuing discipline and performing evaluations. Both sites use the same policy and procedure manual and the same forms. The Imaging employees at both sites share a radiology information system called QUADRIIS. Radiology Department employees are stationed at either Rancho Springs or Inland Valley, but may occasionally float back forth between facilities.

Prior to acquisition, MRIs were only performed at Rancho Springs, which contracted out for this service. After acquisition, Inland Valley purchased MRI equipment. Patients at Rancho Springs needing MRIs are taken to Inland Valley. Patients are taken from Rancho Springs to Inland Valley for an MRI exam approximately four to five times per week. Patients may also have MRIs taken at other facilities.

The results of an MRI done on a Rancho Springs patient are dictated into the QUADRIIS system and the results are printed at Rancho Springs.

The Cardiopulmonary Department is run by a single Director for both sites. There is a supervisor at each facility. Supervisors may spend much of their time performing the same respiratory tech functions as the other respiratory techs. The Director is responsible for hiring, issuing discipline and performing evaluations. Some Cardiopulmonary employees may float between facilities. There is only one EEG technician for both Inland Valley and Rancho Springs, and one Respiratory Therapist who performs pulmonary functions at both facilities.

Environmental Services, which is responsible for cleaning the facilities, is run by a single Director for both sites. Below the Director, there is an EVS Supervisor at each site. The employees share equipment and supplies between sites as needed. The department uses a single policy and procedure manual at both sites.

Transportation department employees take patients from hospital to home and vice versa, and also deliver mail, x-ray films and lab specimens between facilities. Transportation department employees work at both of the facilities.

Plant Operations is run by a single Director for both sites, with a supervisor at each site. The employees are based at both facilities and float back and forth. All Plant Operations employees are governed by the same policy and procedures manual.

There are two BioMed engineers, one based at each facility. The BioMed engineers float between facilities based on scheduling needs. The department is governed by a single policies and procedures manual.

Security is contracted out, but contracted employees for both sites report directly to the Plant Operations Manager at Inland Valley.

There is a single disaster plan for Southwest Healthcare that covers both facilities. Southwest Healthcare holds regular disaster drills, in which there is continuous contact between individuals of both facilities.

The Dietary Department, which prepares the food for patients and employees, is located at both facilities. It is run by a single Director. Each facility also has a Dietary Supervisor. Both facilities use the same policies and procedure manual. The three Dietary employees in the special functions crew work at both facilities on a regular basis in order to staff the approximately fifty special functions per month at each site.

There is a single Risk Management department-which handles patient complaints and related litigation issues-which services both facilities.

There is a single Marketing Department which services both facilities. It handles all marketing and public relations issues as well as community education for both facilities.

The accounting functions for both Rancho Springs and Inland Valley are handled by Southwest Healthcare controllers, who are located in the central business office (CBO), which is a separate facility from both Rancho Springs and Inland Valley. The controllers handle accounts payable and the payroll systems for both facilities, which information is produced on a consolidated basis.

Inland Valley and Rancho Springs share the same tax ID number as well as the same provider number, the effect of which is to have one consolidated reporting system for W-2s, 1099s, income statements and patient billing for both facilities.

The operating budgets for the two facilities are prepared on a consolidated basis. There is a single operating budget for the entire health system.

The CBO houses multiple departments which service both Rancho Springs and Inland Valley. The CBO has both a Director and a Supervisor. The Business Office is responsible for customer service, billing and collections for both Inland Valley and

Rancho Springs, and is located in the CBO. The Business Office has multiple subgroups including Registration, Collections and Patient Accounting, all of which are located in the CBO as well. All these groups perform their respective services for both facilities.

The Materials Management Department, which is responsible for purchasing, receiving and distributing supplies and equipment for both Rancho Springs and Inland Valley has a single Department Director with responsibilities over both locations. The supplies are stored at both Rancho Springs and Inland Valley, and are often transferred between locations. The Materials Management Department uses the same policies, procedures and forms for both sites.

The Information Services Department, which manages the computers and information systems for both Inland Valley and Rancho Springs, has one Department Director responsible for both sites. All of the Information Services employees perform work at both facilities, and there is one central helpdesk at which Department employees receive calls from both sites. The same forms, policies and procedures are used for work done at both sites.

The Health Information Services Department, managed by a single department Director with responsibility for both sites, handles the medical records for both Rancho Springs and Inland Valley. The Department uses the same policies, procedures and forms at both sites. There is an offsite warehouse that centrally houses all Southwest Healthcare charts together.

A new administrative building was due to open in early 2004 on the Rancho Springs grounds. The building is to house, among other functions, administration for Rancho Springs, medical records and quality departments, and education classrooms for both sites. The educational classrooms will be used for nursing education for all nurses of Southwest Healthcare.

Southwest Healthcare has a single, unified Medical Staff for both sites which is run by a single Chief-of-Staff with responsibilities over both locations. Physicians apply to Southwest Healthcare-as a system-for privileges, and the Medical Staff at Southwest

Healthcare consists of physicians who have privileges at Inland Valley and Rancho Springs. The Chief Operating Officer of Rancho Springs is responsible for the Medical Staff at both facilities. There is a single Medical Staff Office for Southwest Healthcare, located at Rancho Springs. The Medical Staff is governed by Medical Staff By-laws and Medical Staff Rules and Regulations, which are in effect at both facilities.

The physicians admit patients to both hospitals. Most physicians are required to take calls at both hospitals, with some exceptions.

Registered Nurses have frequent contact with the physicians who admit patients at either Inland Valley and/or Rancho Springs and nurses from both facilities participate together with physicians in the Interdisciplinary Practice Committee.

20. Bargaining History

In approximately 1996, the United Nurses Association of California (UNAC) filed a petition to represent nurses at seven facilities then owned by Sharp Healthcare, one of which was Rancho Springs. The appropriate bargaining unit was determined to be registered nurses at the seven facilities, the rest of which were located in San Diego County. Pursuant to an election, UNAC became the representative of the nurses at all seven Sharp Healthcare facilities, including Rancho Springs. In 1998, Sharp Healthcare and UNAC entered into a collective bargaining agreement covering all of the Sharp facilities.

About four months after entering into the Agreement, Rancho Springs was purchased by Tenet Healthcare. Thereafter, Tenet and UNAC began negotiating for new contract. After approximately eighteen months of negotiations, UNAC withdrew from bargaining without ever reaching an agreement. No other labor organizations have represented employees at Rancho Springs prior to its purchased by Universal.

Inland Valley has had no bargaining relationship with any labor organization since the acquisition. In 1995, there was a failed attempt to organize Inland Valley nurses.

B. ANALYSIS OF SINGLE vs. MULTI-FACILITY UNIT

The Board recognizes that there often is more than one way in which employees may appropriately be grouped. The Board does not require a petitioner to seek any particular appropriate unit. Rather, the Board only considers whether the unit requested is an appropriate unit, even if it may not be the optimum or most appropriate unit for collective bargaining. *Overnite Transportation*, 322 NLRB 723 (1996); *HeartShare Human Services of New York, Inc.*, 320 NLRB 1 (1995). In determining an appropriate unit in a representation case, the Board first considers the unit requested by the union and determines whether that unit is appropriate. It is only when the petitioned-for unit is not appropriate that the Board considers alternative units proposed by the parties. *P.J. Dick*, 290 NLRB 150, 151 (1998).

In this case, the Petitioner is seeking a single facility Registered Nurses unit at Inland Valley; the Employer contends that a multi-facility unit composed of Inland Valley and Rancho Springs Registered Nurses is the only appropriate unit.

There is a presumption that a single facility location is appropriate. This presumption is true in relation to acute care hospitals also. *Manor Healthcare*, 285 NLRB 224 (1987); *Heritage Park Healthcare Service*, 314 NLRB 447 (1997); *Stormont-Vail Healthcare*, 340 NLRB No. 143 (2003). The party seeking a multi-facility unit has the burden of rebutting the single facility presumption. In *Manor Healthcare* the Board, in evaluating the appropriateness of a single facility unit, held:

The Board has consistently held that a single facility unit geographically separated from the other facilities operated by the same employer is presumptively appropriate even though a broader unit might also be appropriate. *Manor Healthcare Corp.*, at 225. See also *Passavant Retirement and Health Center*, 313 NLRB 1216 (1994).

Generally, the single facility presumption can be overcome by a showing of “functional integration so substantial as to negate the separate identity of the single

facility unit.” *Centurion Auto Transport*, 329 NLRB 394 (1999); *Globe Furniture Rentals*, 298 NLRB 288 (1990). In applying the single facility presumption in the health care industry, the Board has taken into consideration the Congressional concern with avoiding proliferation of bargaining units. *Manor Care*, *supra*.

It is, of course, incumbent upon the party challenging the presumption to present sufficient evidence to rebut it. In determining whether the challenging party has rebutted the presumption, the Board looks to the following factors:

...geographic proximity, similarity of skills and functions, similarity of employment conditions, centralization of administration, managerial and supervisory control, employee interchange, functional integration of the employer, and bargaining history.

Heartshare, *supra*, at 471. Each of those factors is discussed below.

1. Geographic Proximity

As noted, Inland Valley and Rancho Springs are 5.9 miles apart from each other and between 15 to 40 miles away from the nearest other hospitals. Thus they are geographically close and this factor would favor the Employer’s requested multi-facility unit.

2. Similarity of Skills and Functions

The Registered Nurses at Inland Valley and Rancho Springs have many similar job skills and functions. As the two hospitals have many of the same departments and Directors in charge of some of those departments, and many of the same policies and procedures, the requirements of the nurses are similar. There are some differences, however, for example, Inland Valley does not have a Rape Crisis Center or infusion therapy so nurses at Inland Valley are not required to possess those skills. Additionally as noted, patient charting, a major component of any nurse’s job function, is done

differently at Inland Valley than at Rancho Springs. Also, medications, through the Pyxis system, are done differently at the two facilities. Nor do nurses at Inland Valley need to be able to assist in neurobacksurgeries. On balance, however, I conclude that the general similarity of skills and functions supports the multi-facility unit, but only by a narrow margin.

3. Similarity of Employment Conditions

The nurses at both facilities share similar employment conditions. They are subject to most of the same policies and procedures. Their wage rates and benefits are generally the same. This similarity is the result of the extensive centralization of administrative procedures and human resources practices that the Employer has initiated. This factor favors the multi-facility unit.

4. Centralization of Administration, Managerial and Supervisory Control

The Employer has clearly made great efforts to centralize administrative functions and has generally succeeded. However, shared corporate personnel and administrative policies do not mandate a finding that a single-facility unit is inappropriate. *RB Associates*, 324 NLRB 874 (1997); *AVI Food Systems, Inc.*, 328 NLRB No. 59 (1999). There has also been some centralization of managerial control, at the upper levels, although there is much less centralization at the lower levels. Thus there are common Directors for two of the Departments that primarily employ Registered Nurses, the ICU and Emergency Services. Those two Departments comprise about 1/3 of the sought-after bargaining unit. Three other Registered Nurse departments, however, Women's Services, Perioperative Services and Med Surg, which compromise 2/3 of the bargaining unit, have separate Directors. Even more significantly, in the Departments which share Directors, the day-to-day supervision of employees is not done by those Directors, it is done by Clinical Leads and Charge Nurses. Further, even in those hospital Departments

with separate Directors, the day-to-day supervision is carried on at the level below the Director. Thus while the strong centralization of administration and administrative functions would favor the multi-facility unit, the lack of common day-to-day supervision is a very strong factor militating against the multi-facility unit. *Heritage Park Health Care Center*, supra; *D & L Transportation Co.*, 324 NLRB 160 (1997).

5. Employee Interchange

One of the strongest factors weighing against the multi-facility unit is the lack of any significant temporary employee interchange. As noted, in 2002, only 23 RNs from Inland Valley worked shifts at Rancho Springs; only 25 in 2003. In 2002, only 6 nurses from Rancho Springs worked at Inland Valley; only 16 in 2003. Taking all the RN shifts in the aggregate, the total number of shifts worked by Inland Valley RNs in 2002 and 2003 at Rancho Springs was only about one percent. In *Cargill, Inc.*, 336 NLRB 1114 (2001), the Board majority affirmed the Regional Director's conclusion that the single facility presumption had not been rebutted. The majority noted that it would not view 13 to 14 instances of interchange among 23 employees over an 8-month period as demonstrating substantial interchange sufficient to overcome the single-facility presumption. *Id.* at 1114. In *Samaritan Health Services, Inc.*, 238 NLRB 629 (1978), the Board noted that only 15 professional employees of the 120-person professional unit sought by the union "participate (d) in temporary interchange to any significant degree." *Id.* at 629, 632. Clearly, in the present case, where there is a temporary employee interchange rate of only 1-10 percent, that fails to overcome the single facility presumption.

In addition, contact between employees in the requested unit and the Employer's other facilities through joint orientation sessions, inservices, and social events does not count toward substantial and regular interchange. *Hartford Hospital*, 318 NLRB 183, 191 n.7 (1995); *Staten Island University Hospital*, 308 NLRB 58, 61 (1992). In order to

be a factor, the contact should include regular and substantial interchange of employees in the course of performing their daily job duties.

Additionally, the low level of employee interchange between Inland Valley and Rancho Springs was voluntary, which is accorded less weight when computing the actual significance of the temporary employee interchange. *New Britain Transportation Co.*, 330 NLRB 397 (1990); *D & L Transportation, Inc.*, supra. In addition, permanent transfers, which are accorded even less weight than temporary employee interchange, accounted for only 11 or 13 nurses permanently transferred in a one to two year period. *Deaconess Medical Center*, 314 NLRB 677, 677 n.1 (1994).

This lack of any significant temporary employee interchange is an extremely important factor and militates against the requested multi-facility unit.

6. Functional Integration

As noted, the Employer has centralized much of its administrative functions but that is a different matter than actual functional integration. Functional integration essentially is the ability of the two facilities to stand alone and operate on an independent day-to-day basis. In this case, while there is some functional integration, it is not extensive and the facilities would be able to operate independently. While there are some common Directors, the actual day-to-day supervision is done separately at each facility. Both facilities generally have duplicative departments with the exception of the MRI, Rape Crisis Center, Infusion Therapy and the PCU departments. There is interdependence to some extent between the facilities regarding these departments but patients at one facility are also free to seek the offered medical services at other non-Employer facilities.

As noted in *Hartford Hospital*, supra, notwithstanding the “top down” merger of facilities, the day-to-day activities of the employees at the two facilities have essentially remained unchanged. The acquisition did not serve to destroy the independent nature of

the two facilities, and while they share centralized administration, in most other ways they are separate, minimally interdependent, facilities. One hospital does not need to rely on the other to function. Even the Inland Valley CNE testified that the patient care services provided by Emergency Services, the ICU, Women's Services, Med Surg and Perioperative Services at Inland Valley were substantially the same as of the petition-filing date as they were before Rancho Springs was acquired.

On balance I conclude that there is insufficient functional integration to justify the multi-facility unit sought by the Employer.

7. Bargaining History

There is no real relevant bargaining history regarding the two facilities. Years ago Rancho Springs was part of a multi-facility unit but that is essentially dispositive of nothing. I conclude that the lack of relevant bargaining history favors the single facility presumption.¹³

8. Conclusion

In assessing the above criteria I have determined that while the Employer has shown strong evidence of centralized administrative functions, relatively similar job skills, functions and employment conditions, and geographical proximity, those factors are insufficient to overcome the lack of any significant employee interchange, low level functional integration and lack of common day-to-day supervision of employees. As noted by the Board in *Visiting Nurses Of Central Illinois*, 324 NLRB 55 (1997), three critical factors that militate in favor of a multi-facility unit are: 1) regular interchange of employees; 2) common supervision; and 3) a substantial integration of patient care

¹³ I also conclude that there was insufficient record evidence regarding whether a single facility bargaining unit at Inland Valley would adversely affect healthcare available at Rancho Springs or other facilities. Further, as the Board noted in *Manor Healthcare*, the spread of a work stoppage is likely to be facilitated by a broader unit, "[A]n employerwide unit [meaning here a unit of Inland Valley and Rancho Springs] would tend to broaden a given dispute and increase the potential for disruption of patient care." 285 NLRB at 228.

facilities. *Visiting Nurses Association of Central Illinois*, 324 at 56. The Board has consistently found a single-facility unit to be presumptively appropriate when there is no history of multi-facility bargaining and the degree of functional integration with other facilities is not sufficient to destroy the separate identity of the facility that the Union seeks to represent. *O'Brien Memorial, Inc.*, 308 NLRB 553 (1992), citing *Samaritan Health Services, Inc.*, 238 NLRB 629 (1978); *National G. South, Inc.*, 230 NLRB 976 (1977); *Saint Anthony Center*, 220 NLRB 1009 (1975). In the absence of substantial evidence of regular contact and interchange among employees, the Board has found separate bargaining units appropriate even where there is central administrative control. *Passavant Retirement & Health Center*, supra at 1218; *Mercywood Health Bldg.*, 287 NLRB 1114, 1116 (1988). In *Manor Healthcare Corp.*, supra, the Board held that the presumption that a single-facility unit is appropriate may be rebutted by substantial evidence: 1) of regular contact and interchange between the employees of the different facilities, and 2) that a single-facility unit would threaten to disrupt the continuity of patient care that Congress sought to prevent in the health care industry.

In this case, as noted, the Employer has clearly tried to centralize administrative functions, and, to some extent, upper level management functions. Thus, while two departments that primarily employ Registered Nurses, ICU and Emergency Services, share a common director, the actual day-to-day supervision is done by separate supervisors at each facility. In the three departments employing about 2/3 of the Registered Nurses where there is not a common Director, Med-Surg, Women's Services and Perioperative Services, there is even less evidence to support the multi-facility unit argument. The presence of local supervision and control is a decisive factor and overcomes even strong evidence of centralization. *O'Brien Memorial, Inc.*, supra; *Manor Healthcare Corp.*, supra. *Visiting Nurses Association of Central Illinois*, supra.

As discussed, there is also a significant lack of temporary employee interchange. With a few rare exceptions, Registered Nurses at the two facilities have temporarily

interchanged between the hospitals less than ten percent of their time. Many nurses never do any shifts at the other facility. Some have only done one or two shifts. In *First Security Services Corp.*, 329 NLRB 235 (1999), at page 236, the Board stated that the absence of any significant interchange of employees between facilities is a critical factor in assessing whether the single-facility presumption has been rebutted. The Board also noted, at page 236, fn. 5 that “voluntary transfers, such as those transfers initiated by employees for personal convenience or benefit, are of limited significance”. The Board further noted at page 237, that site specific day-to-day supervision shows significant local autonomy. In the absence of a significant level of interchange of employees between multiple facilities and where site-specific supervision existed, the Board found insufficient “basis to overcome the strong evidence of community of interest [among the guards] and our longstanding policy of presuming that a unit limited to employees at a single facility is appropriate notwithstanding evidence of centralized control of the employer’s operations and labor relations”.

Finally, employees designated as joint employees are not required to work at the other facility and, in fact, nearly one-half of the employees designated as joint employees at Inland Valley have never worked at the other facility.

Thus based on the lack of a number of critical factors favoring the multi-facility unit, I find that the Employer has failed to overcome the single facility presumption. Looking at the totality of circumstances, I conclude that the Employer has failed to show “functional integration so substantial as to negate the separate identity of the single facility unit.” *Centurion Auto Transport*, supra; *Global Furniture Rentals*, supra. Thus Inland Valley retains its separate identity despite the Employer’s acquisition of Rancho Springs and the subsequent centralization of administrative functions. As a result, a unit at Inland Valley alone is an appropriate unit.

**C. ANALYSIS OF THE CLASSIFICATIONS OF WOUND CARE
NURSE, SPECIAL PROCEDURES/CATH LAB NURSES, CASE**

MANAGERS, EDUCATION COORDINATORS AND QUALITY ANALYSTS

Turning now to the disputed classifications of Wound Care Nurse, Special Procedures/Cath Lab Nurses, Case Managers, Education Coordinators and Quality Analysts, the following analysis is applicable:

In determining whether the above classifications should be included in the unit found appropriate, the following factors are relevant to determining the disputed employees' community of interest: the extent of centralization of management, supervising and human resources functions and the similarities in the employees' terms and conditions of employment, the differences in the types of work functions and the skills of employees, the extent of functional integration of the operations, the extent of contact and inter-change between employees and the bargaining history. *Lawson Mardon U.S.A.*, 332 NLRB No. 122 (2000); *Edenwald Construction Co.*, 294 NLRB 297 (1989)

Moreover, in this situation where we are dealing with acute health care facilities, the Board's Health Care Rule is applicable.

The Board's Final Rule on Collective Bargaining Units in the Health Care Industry, is set forth at 29 CFR Section 103.30; 54 Fed. Reg. No. 76, 284 NLRB 1580, 1596 (1989) (the Rule). The Rule established the following basic principals regarding acute care hospital bargaining units: 1) a single acute care hospital is a presumptively appropriate bargaining unit; 2) an acute care hospital bargaining unit includes the non-acute care services offered by the acute hospital; 3) except in "extraordinary circumstances" an acute care hospital will not be combined in a single bargaining unit with separate non-acute care entities; 4) the party seeking to demonstrate the presence of "extraordinary circumstances" has a "heavy burden" of showing that its arguments are substantially different from those considered by the Board during the rulemaking

process; 5) within an acute care hospital there are eight appropriate bargaining units and the appropriateness of these eight bargaining units is not subject to adjudication; and 6) when “extraordinary circumstances” are shown to exist so that an acute care hospital is combined with separate non-acute care services, both the presumption that a single acute care hospital bargaining unit is appropriate is rebutted, and the Rule’s determination of eight appropriate bargaining units is inapplicable and the Board shall determine the appropriate bargaining units by adjudication. See 29 CFR Part 103.30 (a) and (b).

With regard to the “extraordinary circumstances” exception to the Rule, the Board indicated that it is to be construed narrowly. Considerations such as size of the institution, the variety of services (including the range of outpatient services), different staffing patterns, and the degree of work contacts between groups of employees, do not fall within the exception. As noted, the party seeking to demonstrate extraordinary circumstances has the heavy burden of showing that its arguments are substantially different from those considered by the Board during the rulemaking process. 284 NLRB at 1573-1574.

The Rule states that absent extraordinary circumstances, the only appropriate units in an acute care hospital are the following eight units set forth in Rule 103.30(a): (1) All registered nurses; (2) All physicians; (3) All professionals except for registered nurses and physicians; (4) All technical employees; (5) All skilled maintenance employees; (6) All business office clerical employees; (7) All guards; and (8) All nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees and guards.

By its plain language the Rule requires that all Registered Nurses of the Employer must be included in the Registered Nurse unit. Moreover, a party seeking an exception to the specific units set forth in the rule bears “the heavy burden” to present the “extraordinary circumstances” establishing that it would be unjust or an abuse of

discretion to apply the letter of the Board's law. See Gen. Counsel Memo 91-3, section II.C.d.

In addition to placing the burden on the party seeking the exception, the Board has made it clear that certain arguments are to fall on deaf ears, as the arguments have already been considered and rejected by the Board during the lengthy rulemaking process leading to the adoption of Section 103.30. Specifically, the Board rejects the argument that specialization among Registered Nurses can be an "extraordinary circumstance" warranting deviation from the Rule. See Gen Counsel Memo 91-3, section II.C.5.c.(4). With this background, I turn to the disputed classifications:

1. Wound Care Nurse

The Wound Care Nurse is based at Inland Valley. The Wound Care Nurse position requires a current Registered Nurse license. Under the Rule guidelines, that requirement, standing alone, is essentially a sufficient enough requirement regarding placement of the Wound Care Nurse into the unit found appropriate.

The facts, however, also show that the Wound Care Nurse shares a clear community of interest with the other petitioned-for nurses. She works hands on with the patients in patient rooms in addition to performing duties at the Wound Care Center, is responsible for performing actual patient medical care, along with the patient's other assigned nurses, and she reviews and makes entries into the patients' charts and administers medication to patients. She receives the same pay and benefits as the staff Registered Nurses and is subject to the same policies and procedures.

As noted, as of the date of the hearing, the Employer intended to open a Wound Care Center at a site some 50 yards away from the Inland Valley acute care center. The Wound Care Nurse was going to continue to provide direct patient care to in-patients and others just as she did previously. Under *Stormont-Vail Healthcare*, 340 NLRB No.

143 (2003), relocating a nurse (or a practice area) from an acute care facility will not serve to destroy the community of interest between employees, slip op. at 4.

I conclude that the fact that the Wound Care Nurse position will be relocated to a separate facility does not constitute "extraordinary circumstances" justifying deviation from the plain language of the Health Care Rule. *Stormont-Vail Healthcare*, supra. Thus I find the Wound Care Nurse should be included in the unit found appropriate.

2. Special Procedures/Cardiac Cath Nurses

The Special Procedures/Cardiac Cath Nurse position requires a valid Registered Nurse's license. As noted, based on the Health Care Rule, that factor alone is essentially enough to warrant inclusion in the nurse's unit.

One Special Procedures Nurse is based at Inland Valley; two Cardiac Cath Nurses are based at Rancho Springs. The Special Procedures/Cardiac Cath Nurses are subject to the same policies and procedures as the other Registered Nurses. They perform direct patient care.

Based on community of interest factors, I find that the Special Procedures/Cardiac Cath Nurses are eligible for inclusion in the Registered Nurse unit. As I have concluded that a unit composed of Registered Nurses based at Inland Valley is an appropriate unit, I will include only the Special Procedures Nurse based at Inland Valley in the unit.

3. Case Managers

The Case Manager position requires a valid California Registered Nurse's license. As previously noted, under the Health Care Rule, that requirement alone is essentially enough to justify inclusion in the RN unit. *Salem Hospital*, 333 NLRB No. 71 (2001).

Even prior to the implementation of the Health Care bargaining unit Rule, Case Managers were routinely included in nurse units, and this result is virtually compelled

since the final Rule became effective in 1991. *Salem Hospital, supra*; *Pocono Medical Center*, 305 NLRB 398 (1991); *Middletown Hospital Assn.*, 282 NLRB 541, (1986); *Frederick Memorial Hospital*, 254 NLRB 36 (1981).

The Case Managers share a clear community of interest with the petitioned-for unit of nurses. The evidence showed that the Case Managers interact directly with patients and assess their clinical status by speaking with them, reviewing their charts and/or visually observing their status. They also interact with other staff nurses, physical therapists, respiratory therapist, and other medical personnel.

Case management is an integral aspect of every in-patient's hospital stay, in that the service determines each patient's condition at the time of discharge and assists the patient in making the transition from the in-patient facility to home or to some other appropriate facility.

The Case Managers and the staff Registered Nurses work with and see each other throughout the workday and work week. The Case Managers office at Inland Valley is located within a few feet of the patient rooms; at Rancho Springs, the Case Managers spend the day on the nursing unit.

On weekends, when Case Managers are not regularly scheduled, staff nurses perform the functions of the Case Manager, with the assistance of the House Supervisor.

Case Managers are on the same hourly pay grade as other Registered Nurses and receive the same benefits as staff nurses. Like other nurses in the Nursing Department, Case Managers report up through the chain of command to the CNE at both sites. Case Managers use the same cafeteria as the staff nurses, celebrate Nurse's Week with the Staff nurses, are eligible for the Nurse of the Year award, and attend nursing recognition and social events with staff Registered Nurses. Case Managers are allowed to wear "street clothes," although they often wear lab coats, and their identification badges designate that they are Registered Nurses.

In view of the Health Care Rule, and the clear community of interest shared between the Case Managers and the unit found appropriate, I find that Case Managers are eligible to be included in the unit.

As I have found the single facility unit at Inland Valley to be an appropriate unit, I will only include those Case Managers who are based out of Inland Valley in the unit.

4. Education Coordinators

The Education Coordinator is a specialist nursing position that requires a valid nurses license. Again, under the Health Care Rule, this requirement essentially requires the inclusion of the Education Coordinator in the nurse's unit. Further supporting their inclusion is that the Education Coordinators work directly with the nurses in the clinical setting when orienting the staff to new equipment, as well as interfacing with staff nurses when teaching re-certification courses, orientation, and on other matters as well as during Skills Week.

The Education Coordinators and staff Registered Nurses are on the same wage rate, subject to the same human resources policies and procedures, entitled to the same benefits and report up through the nursing hierarchy.

Education Coordinator services are closely related to the work of the other unit nurses but the work is specialized, non-direct patient-care related services. This specialization, however, does not require their exclusion from the unit, any more than would specialization in ICU or Emergency Services. The consensus of cases prior to 1991 found it appropriate to include Education Coordinator-type positions in Registered Nurse units. *The Presbyterian Medical Center*, 218 NLRB 1266 (1975) (RN educators included in RN unit); *Jersey Shore Medical Center-Fitkin Hospital*, 225 NLRB 1191 (1976) (same); *Ohio Valley Hospital Assn.*, 230 NLRB 604 (1977) (same); *Newton-Wellesley Hospital*, 250 NLRB 409, (1980) (same).

Thus, based on the nursing license requirement and on community of interest factors, I conclude that Education Coordinators are eligible to be included the unit found appropriate.

As I have found a single facility unit involving only Inland Valley to be an appropriate unit, I will only include the Education Coordinators who are based out of Inland Valley in the unit.

5. Quality Analysts

The Quality Analyst position requires a valid Registered Nurse's license which essentially mandates their inclusion in the nursing unit.

Further, the Quality Analysts share a community of interest with employees in the unit found appropriate. The Quality Analysts and staff nurses are all on the same wage scale, subject to the same human resources policies and procedures, entitled to the same employment benefits and report up through the same nursing hierarchy.

The Quality Analysts work with other staff Registered Nurses when collecting and analyzing data and when they present findings and information to nurses during committee.

The quality analysts perform services closely related to the work of numerous other staff nurses, but in specialized roles. Numerous other nurses clearly to be included in any unit found appropriate likewise work in specialized roles on specialized units- such as in Intensive Care and Emergency Services. The particular specialties of the Quality Analysts no more require their exclusion than do the particular specialties of these "floor" nurses. The Board has rejected specialization as a basis for deviation from the standard unit configurations.

Additionally, under existing care law these types of positions are routinely included in Registered Nurse units. *Trustees of Noble Hospital*, 218 NLRB 1441(1975)

(including quality assurance positions in RN unit); *Samaritan Health Services, Inc.*, 238 NLRB (1978) (same); *The Long Island College Hospital*, 256 NLRB 202 (1981) (same).

Thus based on the licensing requirement and the shared community of interest, I conclude that the Quality Analysts are eligible for inclusion in the unit. As I have found a single facility at Inland Valley to be an appropriate unit, I will only include the Quality Analysts based at Inland Valley in the unit.

There are approximately 215 employees in the unit found appropriate.

DIRECTION OF ELECTION¹⁴

I shall conduct an election by secret ballot among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations.

ELIGIBLE TO VOTE: Those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off, are eligible to vote. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike, who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States Government may vote if they appear in person at the polls.

INELIGIBLE TO VOTE: Employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been

¹⁴ In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that I will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced are ineligible to vote.

Those eligible shall vote whether they desire to be represented for collective bargaining purposes by the **CALIFORNIA NURSES ASSOCIATION**.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that an election eligibility list, containing the **FULL** names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director of Region 21 within 7 days of the date of the Decision and Direction of Election. The list must be of sufficiently large type to be clearly legible. This list may initially be used by the Regional Director to assist in determining an adequate showing of interest. The Regional Director shall, in turn, make the list available to all parties to the election only after she has determined that an adequate showing of interest among the employees in the unit found appropriate has been established.

In order to be timely filed, such list must be received in the Regional Office, Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017-5449, on or before, April 15, 2004. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in

extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of 2 copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed the preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.).

RIGHT TO REQUEST REVIEW

A request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570, under the provisions of Section 102.67 of the Board's Rules and Regulations. This request must be received by the Board in Washington by April 22, 2004.¹⁵

DATED at Los Angeles, California this 8th day of April, 2004.

James J. McDermott
Acting Regional Director¹⁶
National Labor Relations Board
Region 21

¹⁵ See <http://gpea.NLRB.gov> for e-filing requirements.

¹⁶ This case was transferred from Region 21 to Region 31 pursuant to the Board's interregional assistance program for decision writing only.